IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No. 318 of 2000

Date of decision: 20.7.2007

State of H.P. **Appellant**

Versus

Ranjit Singh **Respondent**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?[1]

For the Appellant: Mr. J.S.Guleria, Law Officer

For the Respondent: Mr. Y.Paul, Advocate

Deepak Gupta, J. (Oral)

This appeal is directed against the judgment of Judicial Magistrate, Barsar at Hamirpur in Criminal Case No. 4-1-1994 R.B.T. 45-III-1998, decided on 3.12.1998 whereby he has acquitted the accused-respondent of having committed offence punishable under Section 61-1-14 of the Punjab Excise Act, 1914 as applicable to the State of Himachal Pradesh.

The prosecution case in brief is that on 30.8.1993 when H.C. Vijay Kumar and L.H.C. Hazara Singh were coming back after investigation of some other

---

[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

matter, they met the accused-respondent who was carrying one grey coloured bag on his back. The accused-respondent started running on seeing the police party. Therefore, the police officials became suspicious and intercepted the accused and on checking of the bag 10 bottles of country liquor-Una No. 1 were recovered from the bag. After following due procedure and taking samples of the liquor the challan was filed in court.

The independent witness PW-2 Kashmir Singh has not at all supported the prosecution case. According to him nothing happened in his presence. PW-5, Bansi Lal is the other independent witness. He has stated that 10 bottles of country liquor, Una No.1 were recovered from the accused-respondent on his search. He, however, admitted in cross examination that his statement was not recorded by the police and he had only appended his signatures on the recovery memo. A suggestion was put to him that he was inimical towards the accused-respondent since the accused-respondent had filed a complaint against him before the S.D.M., Barsar.

PW-3 is Hazara Singh. Though he has also stated that 10 bottles of liquor were recovered from the

accused-respondent, he in his cross examination has stated that the police party was on patrol duty . According to him police patrol was with a view to seize illicitly fell wood and to carry out excise raids. According to this witness they had received prior secret information that the accused-respondent was coming with liquor. He has also admitted that PW-5, Bansi Lal has been associated as witness by the police in a large number of cases.

PW-7, Vijay Kumar, however, puts up a totally different story. Though he also states that 10 bottles of liquor were recovered, according to him he had no prior secret information. He has also admitted that there was prior litigation between PW-5 Bansi Lal and the accused-respondent.

From the aforesaid evidence it is clear that one of the independent witnesses has not supported the prosecution case. The other so called independent witness PW-5 is not an independent witness since even as per the investigating officer there is litigation between him and the accused-respondent. The version of PW-5 can also not be believed because in court he told a gross lie that there was no litigation between him and the accused. Whereas according to PW-3 they had prior

secret information, PW-7 states that he had no prior information. The learned trial court keeping in view the aforesaid facts and circumstances rightly acquitted the accused-respondent. I see no reason to interfere in the judgment of the trial court. The appeal is accordingly dismissed. Bail bonds of the accused-respondent are discharged.

July 20, 2007(K) (Deepak Gupta), J.